

**MINUTES OF THE OPEN SESSION  
OF THE RHODE ISLAND ETHICS COMMISSION**

**December 21, 2010**

**The Rhode Island Ethics Commission held its 20th meeting of 2010 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, December 21, 2010, pursuant to the notice published at the Commission Headquarters, the State House Library, and electronically with the Rhode Island Secretary of State.**

**The following Commissioners were present:**

**Barbara R. Binder, Chair Edward A. Magro**

**James V. Murray Mark B. Heffner**

**Frederick K. Butler John D. Lynch, Jr.\***

**Deborah M. Cerullo, SSND**

**Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Jason Gramitt, Dianne L. Leyden, and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini, and Gary V. Petrarca.**

**At 9:03 a.m. the Chair opened the meeting. The first order of**

**business was a motion to approve minutes of the Open Session held on November 9, 2010. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To approve minutes of the Open Session held on November 9, 2010.**

**ABSTENTIONS: Barbara R. Binder, Edward A. Magro and James V. Murray.**

**\* Commissioner Lynch arrived at 9:04 a.m.**

**The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of Robert Coulter, a member of the Tiverton Town Council. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. The Petitioner stated that to his knowledge he and his wife have withdrawn and or voluntarily dismissed all prior pending tax appeals involving the Town of Tiverton and certain of its officials. As to the taxpayer suit in Superior Court, the Petitioner informed that he does not know if the joint stipulation dismissing the action was filed with the court, but he represented that he would recuse if the issue were to arise. In response to Chair Binder, Staff Attorney Gramitt stated that the**

**Petitioner must continue to recuse until he is certain that his spouse has been officially removed from the taxpayer suit.**

**In response to Commissioner Cerullo, the Petitioner stated that any judgment resulting from the Superior Court taxpayer action would either effect only the remaining plaintiffs or all taxpayers in Tiverton, but it would not have an effect on a particular subclass of Tiverton taxpayers. Upon motion made by Commissioner Magro and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Robert Coulter, a member of the Tiverton Town Council.**

**The next advisory opinion was that of Wallace Gernt, a member of the Rhode Island Health Services Council. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Butler and duly seconded by Commissioner Lynch, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Wallace Gernt, a member of the Rhode Island Health Services Council.**

**The next advisory opinion was that of Samuel D. Zurier, Esq., a member-elect of the Providence City Council. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Heffner and duly**

**seconded by Commissioner Murray, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Samuel D. Zurier, Esq., a member-elect of the Providence City Council.**

**The next advisory opinion was that of Steven M. Costantino, a legislator serving in the Rhode Island House of Representatives. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present, along with his legal counsel. Chair Binder expressed support for the draft legal analysis and suggested that the Commission discuss amending Regulation 5007 under New Business. Commissioner Heffner concurred. Upon motion made by Commissioner Heffner and duly seconded by Commissioner Murray, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Steven M. Costantino, a legislator serving in the Rhode Island House of Representatives.**

**The next advisory opinion was that of Dawson Hodgson, a member-elect of the Rhode Island Senate. Staff Attorney Gramitt presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Lynch and duly seconded by Commissioner Murray, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Dawson**

**Hodgson, a member-elect of the Rhode Island Senate.**

**The next advisory opinion was that of Vincent F. Ragosta, Jr., a member of the East Greenwich Personnel Board. \*Commissioner Lynch recused and left the meeting at 9:43 a.m.**

**Staff Attorney Stewart presented the Commission Staff recommendation. She informed that the Petitioner could not be present due to another obligation. Upon motion made by Commissioner Murray and duly seconded by Commissioner Butler, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Vincent F. Ragosta, Jr., a member of the East Greenwich Personnel Board.**

**Chair Binder noted that the advisory opinion for Gordon R. Bouchard, R.N., B.S.N. was continued to a future meeting.**

**\*Commissioner Lynch returned at 9:48 a.m.**

**The next advisory opinion was that of Gary P. Cote, Chairman of the Coventry Fire District Board of Directors, who is also a member of the Coventry Town Council. Staff Attorney Stewart presented the Commission Staff recommendation. She informed that the Petitioner could not be present due to work obligations. Upon motion made by Commissioner Cerullo and duly seconded by Commissioner Magro, it**

**was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Gary P. Cote, Chairman of the Coventry Fire District Board of Directors, who is also a member of the Coventry Town Council.**

**At 9:50 a.m., upon motion made by Commissioner Murray and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4), to wit:**

**a.) Motion to approve minutes of Executive Session held on November 9, 2010.**

**b.) In re: Vincent J. Polisena,  
Complaint No. 2010-10**

**c.) Status Update:**

**Joseph S. Larisa, Jr. v. Rhode Island Ethics Commission,  
Supreme Court No. 10-280-M.P.**

**d.) Motion to return to Open Session.**

**The Commission returned to Open Session at 10:13 a.m. The next order of business was a motion to seal the minutes of the Executive**

**Session held on December 21, 2010. Upon motion made by Commissioner Magro and duly seconded by Commissioner Lynch, it was unanimously**

**VOTED: To seal the minutes of the Executive Session held on December 21, 2010.**

**Chair Binder reported that the Commission took the following actions in Executive Session: 1) unanimously approved minutes of the Executive Session held on November 9, 2010; 2) received a status update on Joseph S. Larisa, Jr. v. Rhode Island Ethics Commission, Supreme Court No. 10-280-M.P.; and 3) unanimously approved an Informal Resolution & Settlement in the matter of In re: Vincent J. Polisena, Complaint No. 2010-10.**

**The next order of business was a discussion regarding Probable Cause. Chair Binder indicated that Vice Chair Cheit had requested that this matter be on the agenda to allow comment from those who were absent from the last meeting. Chair Binder stated that she agreed with the thorough discussion represented in the November 9, 2010 meeting minutes. Commissioner Lynch agreed and noted that the issue was sufficiently discussed at the prior meeting. Commissioner Murray concurred. Chair Binder concluded that that Commission was satisfied with the discussion on this issue.**

**The next order of business was a discussion on the Treatment of**

**Members of Umbrella Unions/Professional Organizations. Chair Binder noted the background materials that had been distributed to the members and stated her belief that issue is the definition of “business associate.” Chair Binder indicated that she would not want the issue to be viewed as only dealing with unions because it is a larger issue. She suggested that the members come to the next meeting with ideas about addressing the definitional language.**

**The next order of business was the review and approval of the tentative 2011 Commission meeting schedule. Chair Binder impressed upon all Commissioners the importance of contacting Staff before a meeting if unable to attend in order to prevent quorum issues.**

**The next order of business was the Director’s Report. Executive Director Willever reported that there are six complaints and twelve advisory opinions pending. He stated that eight formal APRA requests have been granted since the last meeting and there is one appellate litigation matter pending.**

**The next order of business was the vote to approve the tentative 2011 Commission meeting schedule. Upon motion made by Commissioner Butler and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To adopt the tentative 2011 meeting schedule.**



The next order of business was New Business. Chair Binder indicated that Regulation 5007 is problematic because it requires extensive legal analysis for its application. Chair Binder stated that the analysis under Regulation 5007 really goes to Article IX of the Rhode Island Constitution, which refers to the appointment of inferior officers as well, noting that the Constitution seems to look beyond the highest level officers and cabinet appointments. Staff Attorney Gramitt discussed the legislative history of the revolving door provisions, explaining that after R.I. Gen. Laws § 36-14-5(n) initially failed to pass in the legislature the Commission promulgated Regulation 5007, and the following year the legislature passed 5(n). Staff Attorney Gramitt suggested the Staff be given time to come up with proposals to amend Regulation 5007, or perhaps the Commission could find that the section 5(n) is the better revolving door provision and Regulation 5007 should be repealed. Chair Binder expressed that the Governor should have latitude when making his appointments.

Commissioner Heffner noted that the Commission received correspondence from the RIACLU regarding Regulation 1011, Informal Dispositions. Commissioner Cerullo suggested that the Commission take time to consider it before any further discussion.

At 10:23 a.m., upon motion made by Commissioner Murray and duly seconded by Commissioner Lynch, it was unanimously

**VOTED: To adjourn.**

**Respectfully submitted,**

---

**J. William W. Harsch**

**Secretary**